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ARTÍCULOS

UTOPIA Y PRAXIS LATINOAMERICANA. AÑO: 25, n° EXTRA 6, 2020, pp. 257-267
 REVISTA INTERNACIONAL DE FILOSOFÍA Y TEORÍA SOCIAL
 CESA-FCES-UNIVERSIDAD DEL ZULIA. MARACAIBO-VENEZUELA
 ISSN 1316-5216 / ISSN-e: 2477-9555

Anatomy of Hasupa Hasundau Hapakat (H3) as a Lawmaking System

Anatomía de Hasupa Hasundau Hapakat (H3) como sistema legislativo

U. SABIAN

<https://orcid.org/0000-0002-4170-3277>

utsman.sabian@gmail.com

Institute Agama Islam Negeri Palangka Raya, Palangka Raya, Indonesia

Este trabajo está depositado en Zenodo:

DOI: <http://doi.org/10.5281/zenodo.3987618>

RESUMEN

Este documento busca abordar, primero, las características de la sociedad en Palangka Raya con los Huma, segundo, los conflictos en Palangka Raya, y en tercer lugar, sinergia entre la legislación. La investigación se llevó a cabo utilizando la sociología del derecho con perspectiva Emik y con 63 informantes involucrados a través de la observación y el estudio de documentos. Los hallazgos muestran lo siguiente: Primero, Palangka Raya es uno de los 14 distritos y Kalimantan Central comprende 5 distritos y 30 aldeas con cultura Huma Betang. En segundo lugar, entre las razones de la violencia se encuentran el desarrollo económico, la religión, la cultura y la política.

Palabras clave: Anatomía de Hasupa Hasundau Hapakat, La legislación, Palangka Raya, Sistema de aplicación de la ley.

ABSTRACT

This paper seeks to address, first, the characteristics of the society in Palangka Raya with the Huma, second, the conflicts in Palangka Raya, and third, synergy between the lawmaking. The research was carried out using the sociology of law with Emik perspective and with 63 informants involved through observation and document study. Findings show the following: First, Palangka Raya is one of the 14 districts and Central Kalimantan comprises 5 districts and 30 villages with Huma Betang culture inherited from the Dayak. Second, among the reasons for violence are economic development, religion, culture, and politics.

Keywords: Anatomy of Hasupa Hasundau Hapakat, Law enforcement system, Palangka Raya, The lawmaking.

Recibido: 12-07-2020 • Aceptado: 10-08-2020



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INTRODUCTION

In the context of Hasupa Hasundau Hapakat (H3) as part of a lawmaking system, it is very crucial to debate on its deradicalization as well as its functions to anticipate the potentials of violence, especially the spiral of violence as coined by Hanson et al (Hanson et al.: 2017, pp. 309-314; Villalobos et al.: 2020, pp. 984-1018). To make law, this study synergizes the H3 concept with the three pillars of law enforcement: legislation, law enforcement officers, and the legal culture of the society. In such synergy, functional law acts as the guide in the society. Fikentsche (Fikentsche: 2016) states that there is no law if there is no society. Similarly, there is no society if the law does not exist. The work by Fikentsche (Ahmad & Ahmad: 2019, pp. 746-778; Fikentsche: 2016) is significant because the law is an important tool that reflects the culture of a particular society.

According to the national agency for counter-terrorism of Indonesia radicalism is an ideological conflict involving a person or a group of people that seek a change through violence, think immaturity, and take extreme actions. Terrorism is the use of violent threats that create chaos or scare among the public. It could lead to mass killing and public damage. To overcome this, ideological and humanistic approaches could be used, but if such approaches fail, the country (not the society) could do violence. In any way, being wise is necessary, because only by being wise could things get better.

Generally, the society in Palangka Raya is a closed one as seen in other cities in Indonesia as well as in other countries. However, very often people fight, create tensions, from a small unit (in a family) to a wide-scale (in the society). Among the reasons for such tensions is a conflict of interest and claims of right (Partington: 2019). In response to that, this study believes that H3 could be an appropriate alternative.

The conflicts of Palangka Raya are not the only ones. In another conflict, Utsman (Utsman: 2007) reported that the conflict among fishermen along the Kumai sacrificed 28 trawl ships (1998-2002). Besides, there was a conflict between the Dayak and Madura in Sampit in the year 2001. When the people in East Kotawaringin were voting for their leader in the year 2010, they also faced conflict. Meanwhile, there are similar problems in other countries. The Soviet Union fought in Afganistan (1979–1989) for several years. In Thailand, the southern part was also hit with a crisis (1960–2014). The reasons for those conflicts include different ideologies, economic status, culture, religion, and politics.

For the case in Palangka Raya, applying H3, which originates from the local Huma Betang as an alternative way of handling the conflicts is believed appropriate. It is inherited from the Adaptation Goal attainment Integration, Latent pattern maintenance (AGIL) framework (Johnson: 2008), which underlines the basic model in ensuring a well-structured society.

According to Kesselring et al (Kesselring et al.: 2017; Ahmad & Ahmad: 2018, pp. 44-49), to ensure a well-structured society, certain law is needed as a social fact that can ensure guidelines that drive the way people in the society should behave, to ensure social integration, support the strengths in the society, benefit the society, avoid and stop riots, create peaceful situations, and re-formulate guidelines for the benefit of the society and local groups when there is any change.

Based on the background of the problem described in the previous section, it is understandable that the problems are as follows: First, what are the characteristics of the society in Palangka Raya with Huma Betang Philosophy that lead to the inheritance of H3 culture as a peaceful system? Second, in what form are the conflicts in Palangka Raya? Third, how could the synergy between lawmaking and H3 as a system prevent radicalism or violence in Palangka Raya?

This study is carried out to discover, first, the characteristics of the society in Palangka Raya with the Huma Betang philosophy that lead to the inheritance of H3 culture as a peaceful system in their life. Second are the conflicts in Palangka Raya. The third is the synergy between lawmaking and H3 as a system in preventing radicalism or violence in Palangka Raya.

METHODS

This legal research utilizes the sociology of law with Emik's perspective because the H3 culture is related to social action. However, all those could only be seen externally, to be understood and interpreted. While there is much symbolic meaning that has to be derived from physical actions, qualitative analysis is used (Jiang: 2019, p. 11).

Primary data were collected on the making of law, deradicalization, and violent conflicts. In detail, data on the characteristics of the society in Palangka Raya with Huma Betang philosophy that inherits H3 as a peaceful system were collected through 19 informants. Data on the conflicts in Palangka Raya were collected from 35 informants. Meanwhile, data on the making of law through H3 in tackling the potentials for radicalism or violent conflicts in Palangka Raya were gathered through 9 informants. Besides that, additional data were also gathered through observation and documents.

RESULTS

Geographical location, local administrative and local knowledge

Palangka Raya is one of the 14 districts in Central Kalimantan. The land area of Palangka Raya is approximately 2400 km², spanning from the whole land area of Central Kalimantan (153,564 km²). It is populated by 2.680.680 peoples according to the census in the year 2015. This study finds that there is the influence of culture and local knowledge factors. As evidence, Huma Betang about H3 is still alive among the people in Palangka Raya. Regarding the existence of the relationship between the subconscious mind and its characteristics, biologically it could guide the process of adapting in the society, which is related to local knowledge (H3). It leads to clear goals of certain laws that protect human beings for the benefit of society. Regarding this, Johnson (Johnson: 2008) states that the information an individual needs in adapting to the environment is subject to the acceptance of the conscious mind through the cultural norm and to the acceptance of the subconscious mind through genetic laws. In general, a framework that is formed by tendencies influenced by genetic and biological characteristics, the required specified information in guiding the individual's behavior, is obtained from external social and material locus and the individual himself as well as the social system. The ability to form an internal situation and adapt their behavior accordingly is important for the desired behavior (Suriansyah et al.: 2019, pp. 127-152).

The study of law as a social fact, especially as it pertains to the behavior and attitude of a leader, is required for the Huma Betang way of life, which leads to H3. It is a determinant of the ability to anticipate the danger of radicalism or violent conflict.

Based on the facts in the field, this study finds a significant correlation between H3 and well-organized society. This reflects the substantial values of Hukum Pancasila. Hukum Pancasila has been practiced by the leaders in local society. The potentials of radicalism and violence conflict could be well-organized and its energy could be tailored for various benefits. In regards to that, the peace could be classified into four levels as visualized in Figure 1.

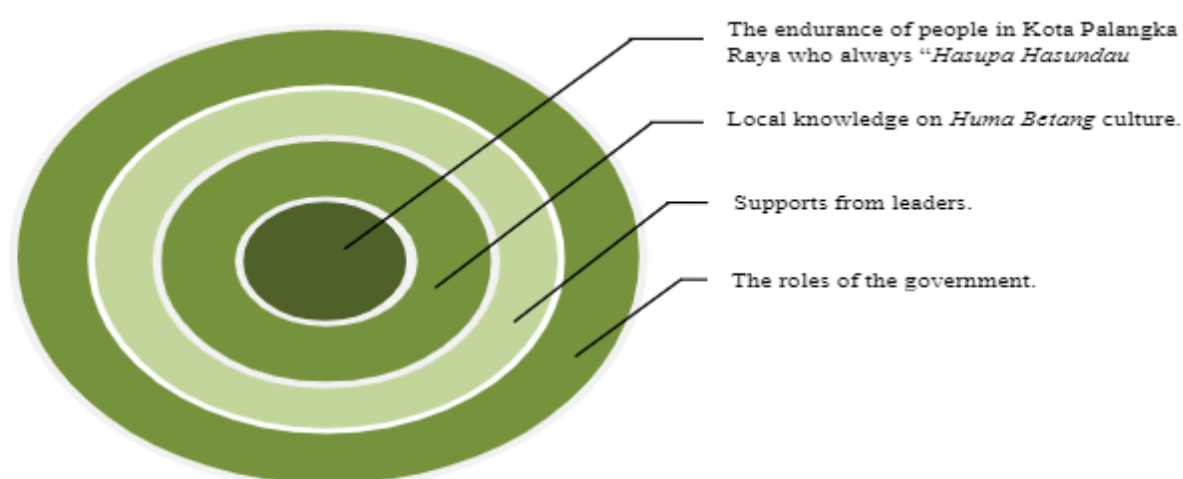


Figure 1. Levels of peace

From four cultural endurance that substantiates to H3, it is stronger in organizations with Dayak culture either formally or informally. Regarding this, Satia (Satia: 2015) expresses that besides history and cultural aspects, the organization aspect, either formal or informal, from the Dayak society has to be known that. First, the formal structure in the Dayak society contains various levels, like those in the government organizations. As an example, the Dayak has Mantir in their villages, Kedemangan in sections, and Dayak Representative Council in districts. Second, the existence of Dayak is stronger compared to government organizations. Third, the Dayak informally practices historical and cultural values well.

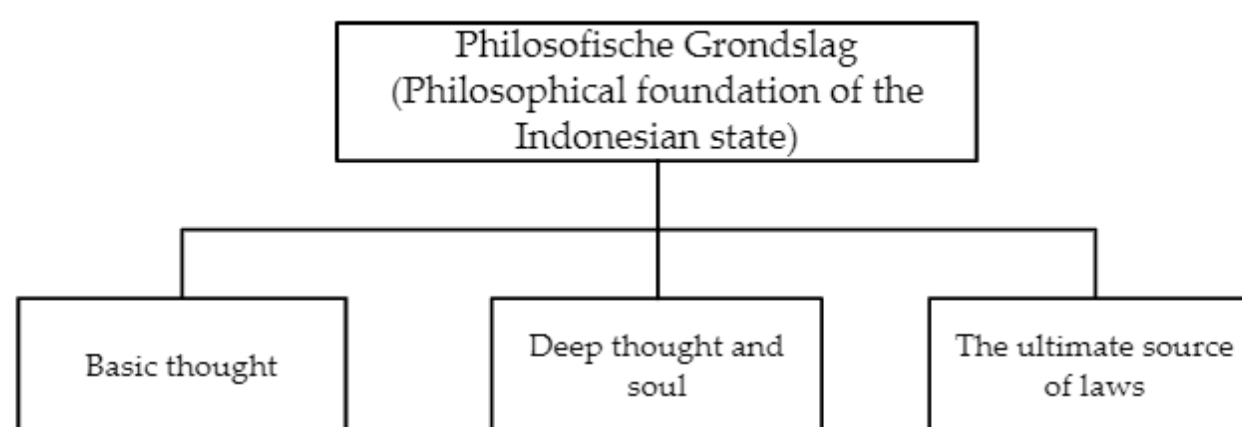
Characteristics of the society in Palangka Raya with Huma Betang philosophy leading to H3 cultures part a of peaceful system

The characteristics of the society in Palangka Raya have some similarities with those in the society in Central Kalimantan. It is because there is a link in their culture, specifically the Huma Betang (which also exists in Central Kalimantan). Meanwhile, other cultures include Malay, Jawa, and Banjar from Kalimantan Selatan. In The Banjar culture, the prevention or conflict handling is done through "Adat Badamai" (Hasan, 2007). Regarding the Huma Betang philosophy as a belief, Kusni Sulang expresses that:

... "Huma Betang" is a portrait of the Dayak life. The "Huma Betang" has the following three meanings: 1. "Huma Betang" as the philosophy of live-dead Dayak people, 2. Understanding each other's opinions and feeling, and 3. fighting to be the best person (interview with Kusni Sulang, 13 January 2013 in Palangka Raya).

At a moderate level, "Huma Betang" could also mean, "a big house lived by leaders of various families with various purposes". Such practice is still being carried out until now as their principle in life. At the same time, they respect the Pancasila and the 1945 Indonesian constitution. It is the basis for their culture, like other societies in Indonesia. No matter what culture and local knowledge are, the Pancasila has to be practiced as the main law.

Rijadi (Rijadi: 2008) outlines the scheme of Pancasila as seen in Figure 2:



The Huma Betang has not changed since the beginning. The symbols in Huma Betang mean halls in the Huma Betang are generally not separated for different families. If there is any separator, it means an alteration of the original form. It has been the society's tradition that every family brings complete apparatus such as a mat and blanket for sleeping when the sleep time comes. There is no specified dining place; when mealtime comes, all families will gather at a place and have meals (rice, vegetables, and other side dishes) together. In the Huma Betang system, society believes in social values, which makes them practice various religions such as Hindu Kaharingan, Islam, Catholicism, and Protestantism. The people respect other religions than the one they believe in, live in a peaceful atmosphere, and deal with each other well. The Kaharingan was the first religion in Indonesia before other religions came into the country. With the various religions and beliefs, they are systemically well-controlled and protected from any conflict that might disturb their relationships. In another perspective, the Huma Betang also keeps and nurtures tolerance values in practicing various religions and customs; until recently, there is no accurate information on where and when the first Huma Betang has been developed (Data gathered from informants, especially the ruling persons in Palangka Raya).

From the listed points up, there is no single point that contains a negative value that could lead to separation or radicalism or terrorism. The substance of those values enables them to be sensitive to norms in their varying customs and ensure peaceful relationships. However, they are exposed to small degrees of violence, radicalism, and conflicts because such events can happen anywhere, including in Palangka Raya.

In H3, the harmony value of the Huma Betang is symbolized with the huge Dayak custom house. All members obey the knowledge and norms of the community until the Huma Betang reflects the social obligation of the local community. To ensure the society is harmonious, normative policies have been formed, in terms of expressing the knowledge about the local community. Accordingly, the local regulation of the central Kalimantan province number 16 the year 2008 was formed. In the normative policy, a precise description about the Dayak appears in article 1 sentence 13 local regulation number 18 of the year 2008, which states that Dayak is a group of indigenous people in Central Kalimantan who have certain rights in their customs and norms, and their culture recognizes Bhineka Tunggal Ika which is the motto of the Republic of Indonesia (Secretariat of Central Kalimantan provincial law bureau).

Huma Betang also contains sanctions for actions that contravene the law in daily interactions. To ensure the harmonious relationship is maintained, an agreement is formed to align with the national law. Specifically, local regulation number 16 article 32 the year 2008, lists the types sanctions that could be imposed by the authorized body are to include oral or written advise; ostracism from the society, in which case the guilty person is not allowed to join any event in the society for a certain period; disengagement from the society, in which the guilty person is not allowed to make any social and cultural relations in the society for a certain period; removal of cultural status; and any other sanctions appropriate to the local cultural law.

Referring to the characteristics of the people in Palangka Raya gathered through several informants through their thinking and field facts, this study believes that there is a need to implement the principles of H3, where Silaturrahim gathering has to be frequently organized. From the Silaturrahim, the understanding of attitude and behavior in the main welfare is strengthened. Eventually, it could gradually reduce radicalism or violent conflicts and terrorism, in line with the framework coined by Carolan (Ahmad & Sahar: 2019, pp. 1540-1543; Carolan: 2016), which covers adaptation, goal attainment, integration, and latent pattern maintenance (AGIL).

The people in Palangka Raya commit to living and working harmoniously together while recognizing the possibility of conflict. It is evidenced when the 19 informants consisting of the leaders of the Dayak (Mantir and Damang), the Imams, youth leaders, and academics in Palangka Raya agree that a peaceful life without violence (near-radicalism) is beautiful and aspired to by all the people in Palangka Raya. However, everyone has to be protective of the peacefulness because, at any time, before anyone knows it, violence or terrorism could occur.

The Silaturrahim values in H3 remind visitors to always respect the local culture. Their ability to adapt to the local culture could ensure that they are respected by the local people. Besides the positive values, there is a negative value because, wherever there is a society, there is always violence either publicly or closely. Hence, a sufficient law is necessary to ensure the society develops sufficient live system appropriately.

The Concept of Hasupa Hasundau Hapakat (H3)

Independently, the meaning of H3 could be detailed as follows. Hasupa means there is a meeting because both parties desire to meet; the parties could be friends, family members, offices, communities, or community leaders. Hasundau means almost the same thing as Hasupa, but Hasundau is in a context where both parties have been separated for a long time, and connotes a desire to meet to express their deep missing feeling. Hapakat means togetherness in the meeting with Silaturrahim among them. Hasupa and Hasundau always appear togetherness in solving daily problems.

In maintaining peace, H3 is correlated with concepts in managing potential conflicts in controlling them from growing into violence and radicalism. The people need to always meet so that the potentials of violence

could be identified and carefully handled in advance. Currently, Palangka Raya is relatively peaceful, with the following trend as shown in the figure below.

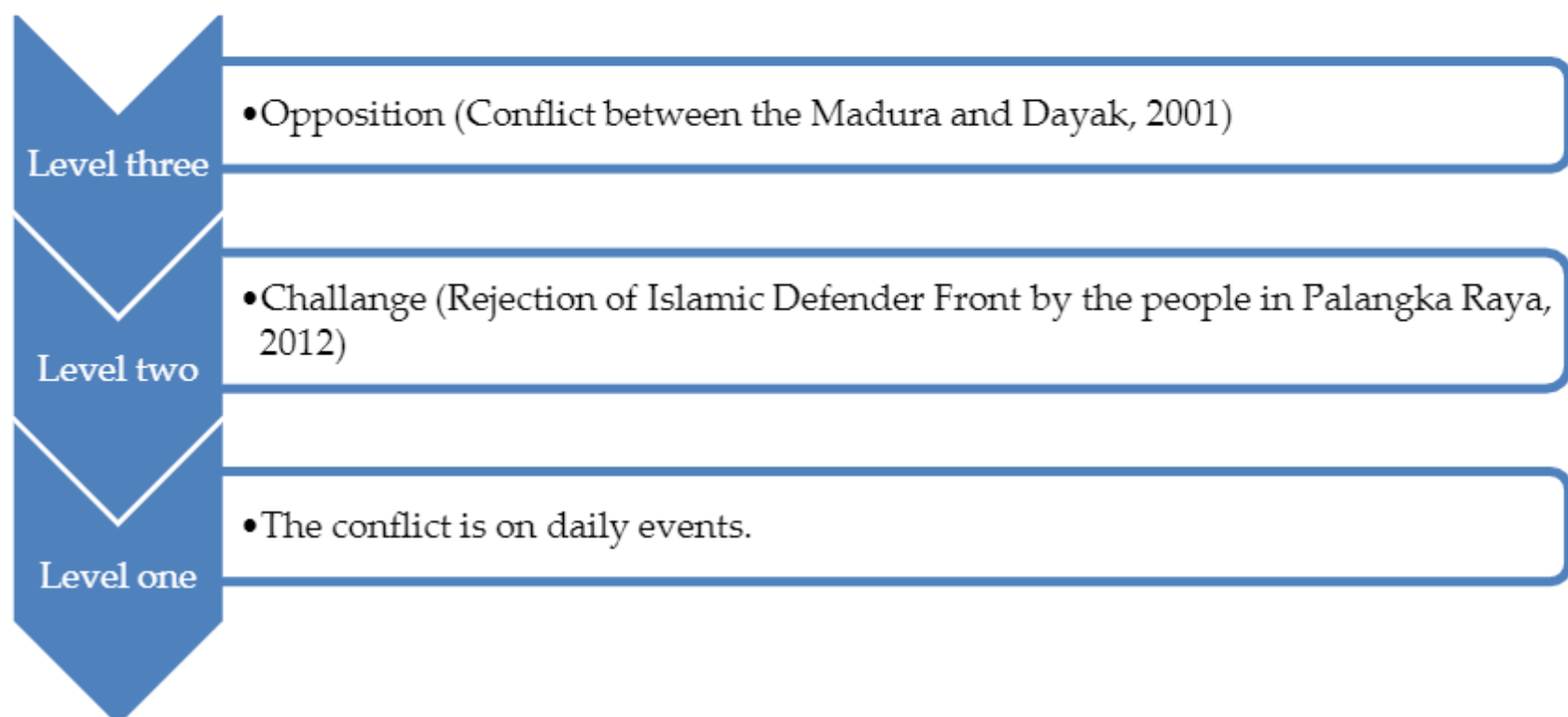


Figure 3. The current conflict in the communities in Kota Palaangka Raya

Regarding the characteristics of violence or radicalism in Palangka Raya, Dahrendorf (Dahrendorf: 1988) examines the school of thought in the theory of conflict. Dahrendorf's (Dahrendorf: 1988) views about the main assumptions in the theory of conflict include the following. Every community obeys the change process in which change happens everywhere. Dissensus and conflict happen everywhere. Every human being in the community contributes to disintegration and community change. Every community is based on forces controlled by certain members over certain other members.

In the field study, in which data were provided by 19 informants, the community in Palangka Raya has a characteristic that they like to refresh their relationship and Silaturahmi. The synergy between H3 and the main culture is clear. It has to be managed continuously, involving the authorized party. Eventually, H3 could be the concept that manages the potential of violence, radicalism, or terrorism as shown in the following figure.

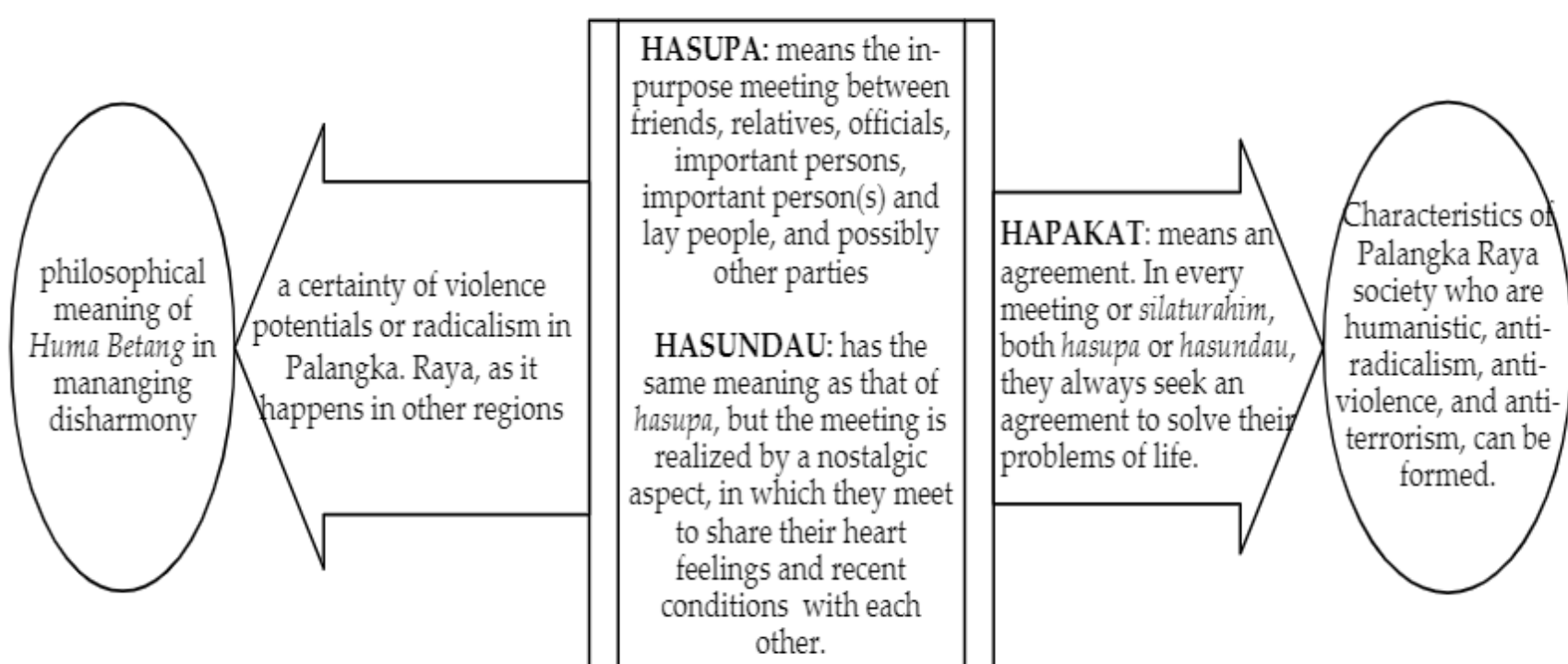


Figure 4. H3 becomes the concept that manages the potential of violence and radicalism

Conflicts happened in Palangka Raya

Conflicts not only happened in Palangka Raya but also in other places in Indonesia as well as in other countries. Radicalism in Central Kalimantan has proven as leading to violence, such as the conflict between the Dayak and the Madura in Sampit Central Kalimantan in the year 2001 where 383 people died, and there was conflict over the appointment of the leader in West Waringin District in the same year. In Palangka Raya, on February 25 and 26, 2001, 23 houses of the Madura were burnt by the Dayak. Consequently, violence happened on February 27, 2001, and 5 people of Madura died, with 2 others missing. It was followed by a migration of 2,269 Madura people from Pegatan Mendawai to Banjarmasin South Kalimantan by Speed Boat¹. Next, there was violence when people rejected the Islamic Defenders Front (IDF), who entered into Palangka Raya in 2012. Specifically, the conflict between the Dayak and the Madura in Palangka Raya could be visualized as in Figure 5.

Meanwhile, the chronology of the rejection of IDF in Palangka Raya is visualized in Figure 6 (Kompasiana: 2015). On 11 February 2012 (Saturday), around 10.30 (local time), the Sriwijaya Air that transported the IDF landed in Tjilik Riwut Airport, Palangka Raya, from Jakarta. Before the aircraft landed, hundreds of the Dayak have assembled around 8 a.m. The representative of the Council of Dayak of Central Kalimantan Province. Together, Hardeman Wilson was also there, as the coordinator. They mentioned that the rejection of the IDF has no relation to religion. The peak was when the aircraft landed at 10.30 a.m. (local time).

The community is seen as a social structure that covers associative and disassociative processes that could only be deferred through analysis, which is normally used in academics. The conflict in Palangka Raya, based on data gathered by 35 informants from 5 districts in Palangka Raya, shows that, first, the community in Palangka Raya loves peace because the Huma Betang philosophy is based on non-violence, anti-radicalism, and anti-terrorism. Second, with the rejection of IDF in 2011 by the people in Palangka Raya because they believe that the IDF always make violence. Third, besides the violence made by certain parties, there must be some love that requires a certain approach to be deliberated. Fourth, radicalism or violence, besides being provoked by politics, culture, race, and religion, is also provoked by economic development.

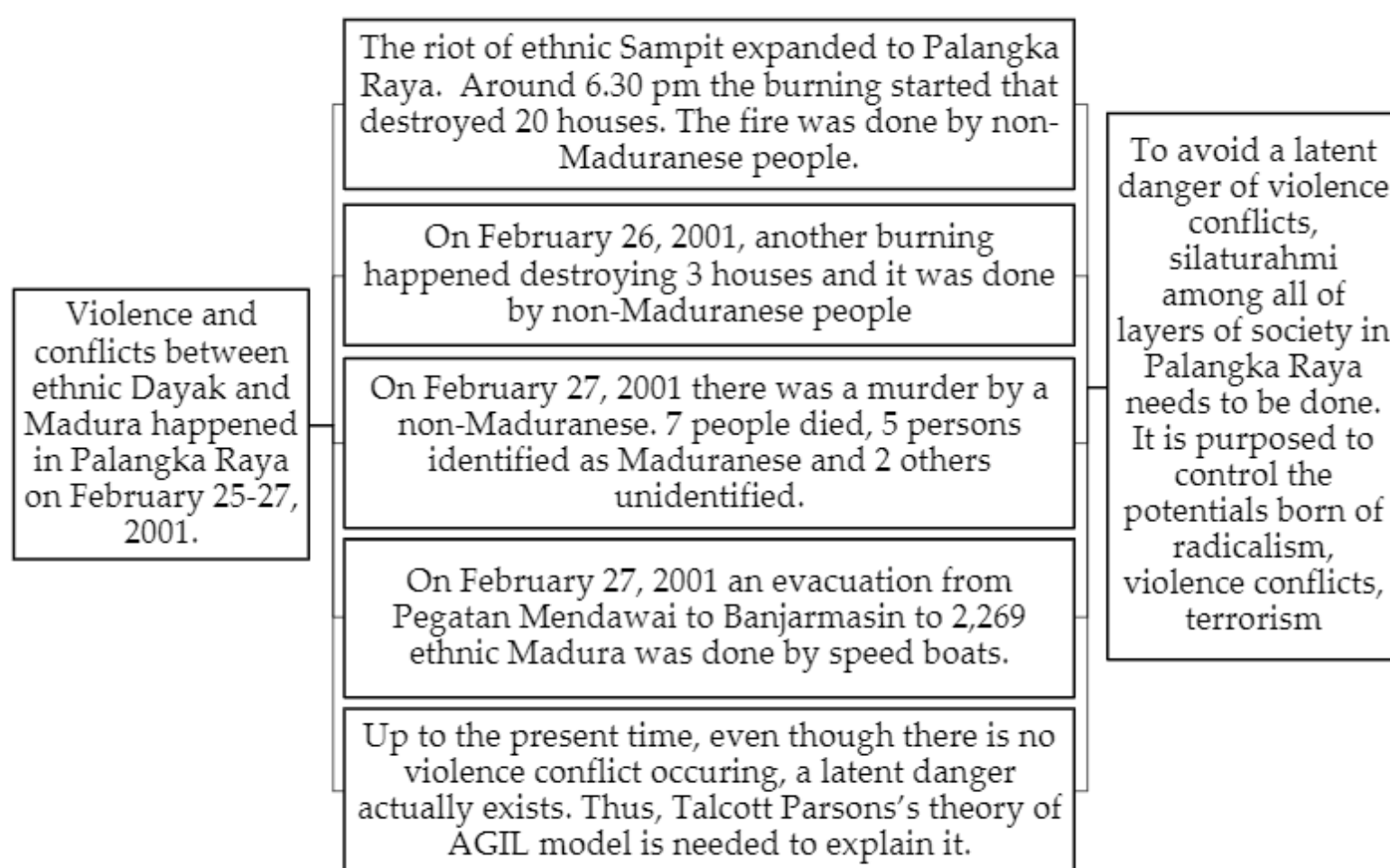


Figure 5. The conflict between the Dayak and the Madura in Palangka Raya

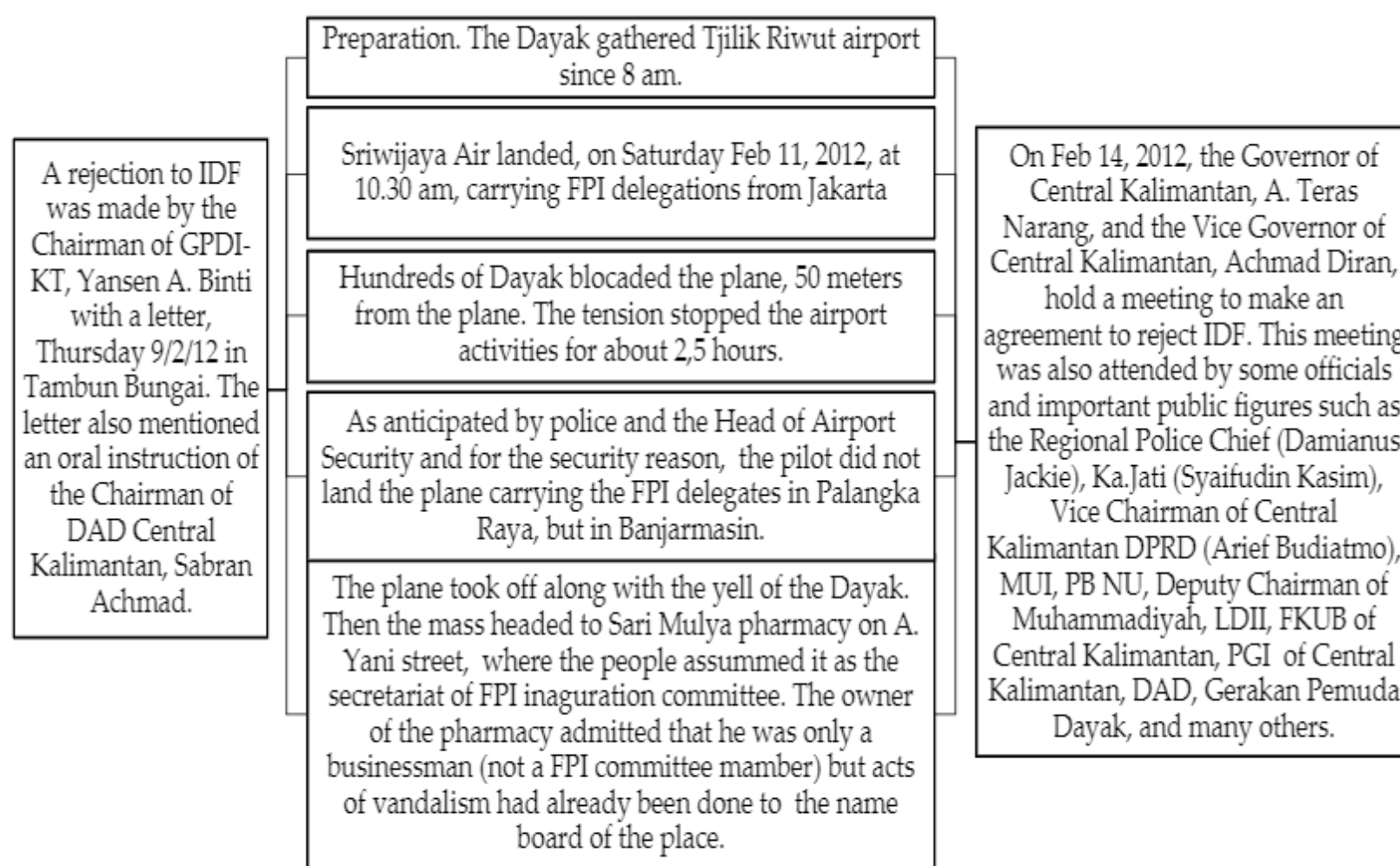


Figure 6. The rejection of IDF in Palangka Raya

The principle of Huma Betang is that the life-dead of the Dayak people has to be advanced. Rengan Tingang Nyamak Jata means the young people of the Dayak have to be advanced. As a consequence, radicalism is treated as a protest against poor economic development because the highest violence is poverty (hunger leads to anger; being fed leads to happiness). However, all human activities are rationalized towards the appropriate welfare of everyone in every situation.

In terms of conflict and peace, Hoebel (Hoebel: 2006) states that the relationship among community members, in determining appropriate and inappropriate actions, lies in ensuring at least the minimal integration among activities among individuals and groups in the community. The conflict has a deep relationship with opposing values in the community.

Utsman (Utsman: 2007) then classified it into three: zero-sum conflict, non-zero-sum conflict, and some conflict. Referring to the classification, the conflicts in Palangka Raya between the years 2001 and 2011 could be represented as shown in Figure 7.

DISCUSSION

Description:

- Zero-Sum Conflict: Both parties are antagonistic, eliminating the opportunity for compromise (like the conflict between the Madura and the Dayak in 2001). The main characteristic of this class is that there is no possibility of collaboration and compromise.
- Non-Zero-Sum Conflict: Parties consult together (like in the rejection of IDF). Its main characteristic is that the parties may still consult and collaborate.
- Sum Conflict: All parties are antagonistic while at the same time compromising for the other party (like IDF was able to handle the situation). The main characteristic is that parties manage the situation flexibly between being antagonistic and compromising.

Law Enforcement and Radicalism

As a response to the potential social change or global and local phenomenon, Selznick & Nonet (Selznick & Nonet: 2007) state that our understanding on social change will not be intact if we keep trying to find the way to adapt that lead to alternatives to the histories and could stand competing, such as from contract to permanent, from Gemeinschaft to Gesellschaft, and from violence to justice.

In the context of this study, progressive law enforcement is necessary. In regards to that, not less than 9 informants have talked about law enforcement in Palangka Raya. It seems good in peaceful situations that is when there is no violence. However, when there is violence, law enforcement is less functional, especially among leaders. Although the law is sufficient for making a judgment, the conflicts still happened as previously described. H3 is one of the pillars in making a judgment, in which it is based on the "legal culture of the society". Hence, the H3 is seen as able to minimize the violent conflict and radical actions.

As mentioned by Dahrendorf (Dahrendorf: 1988), violence often happens; hence the community must be careful always. Curing is always more difficult than preventing, hence togetherness is highly important in preventing it and implementing law enforcement like the functioning H3. The authority has to also participate in this.

Prevention of radicalism through Hasupa Hasundau Hapakat

Besides the use of radicalism theory, conflict, and law as welfare as well as Huma Betang, analyzing the functional requirements of the social law (law as social fact besides law as legal fact system) also requires the recommendation by Carolan (Carolan: 2016). He argues that transforming from social action to the social system requires a process (various levels that ensure peacefulness or appropriateness in human behavior), which is known as AGIL framework (Adaptation Goal attainment Integration, Latent patterns maintenance):

- Adapting to the situation and its context. It determines the appropriateness of social systems to face its environment, like the one in the Dayak community;
- Goal attainment, the function of achieving goals. Carolan (Carolan: 2016) holds that an action has its goal. However, it should focus on a mutual goal, not an individual goal;
- Integrating various factors to achieve one goal. It coordinates various units in the organization or community as a whole, which is available in the Dayak community;
- Latent pattern maintenance, which preserves H3 that has been formed based on values over the years (Utsman: 2014).

The conflict prevention process in this study, which is suitable for various problems in ensuring that public policy can lead to peacefulness, is visualized in Figure 8. It is seen that the use of the H3 concept is very important

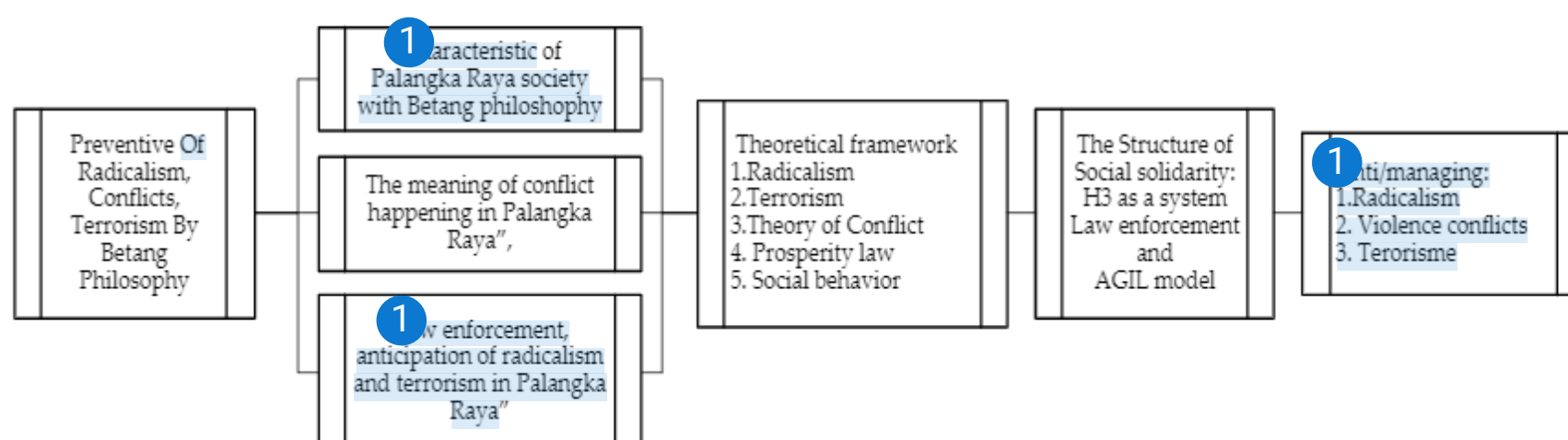


Figure 8. Hasupa Hasundau Hapakat functional process in law enforcement

1 In theories related to community peacefulness, there is a correlation between H3 and concepts on managing conflicts as addressed by Carolan (Carolan: 2016). It is important to ensure violence does not turn into radicalism or terrorism. Hence, the authorized parties should periodically meet in implementing H3. The frequent meeting could determine the potentials for violence and could be handled carefully and speedily.

The synergy between H3 and law enforcement could always lead to the legal system. However, if the law has been formalized, there is no other option, unless implementing and obeying it. It agrees with Bibby (Bibby: 2016, pp. 113-145), who mentioned that each law has to be implemented, and no one could go against it. The synergy of various H3 anatomy as a law enforcement system leads to a concept of law enforcement structured on three pillars (legislation, law enforcement officers, and the legal culture of the society). With an H3 concept as a law enforcement system, in a structure with three pillars, a sovereign peace is formed. The concept is at least expected to prevent or reduce conflict, radicalism, and terrorism. Through love, society could be sovereign, moving towards being a modern society, living in an environment with a responsive law.

CONCLUSION

The most obvious finding to emerge from this study is that (1) The Huma Betang is still its main culture, inherited from the Dayak, and with the H3 culture, the people maintain peace through Silaturrahim and togetherness. (2) Conflicts happen everywhere; at least, 35 informants found that the conflicts in Palangka Raya were caused by factors bordering on economic development, religion, culture, and politics. In addition, in the year 2001 year, a conflict between the Dayak and the Madura happened in West Kotawaringin, and then also the rejection of IDF happened in the year 2011 year. (3) When there is no violence or radicalism, law enforcement is smooth. However, when there is a conflict, law enforcement officers, especially the authorized people, are not able to handle it because the violence is too strong. In law enforcement and radicalism, society lives and develops through Huma Betang; hence it is not possible to be handled with violence or a normative basis. As an alternative, the H3 institution could be formed as a control mechanism in preventing radicalism, conflict, or terrorism. Eventually, it could ensure peacefulness in Palangka Raya.

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Utopía y Praxis Latinoamericana; ISSN 1316-5216; ISSN-e 2477-9555
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BIODATA

U. SABIAN: Utsman Sabian studied in the doctoral program of law at the Islamic University of Indonesia (2007-2012). His qualification is a lecturer of Sociology Law of Syariah Faculty, Islamic Business and Economics Faculty, and Master Program of Family Law of Institut Agama Islam Negeri (IAIN) Palangka Raya, Central Kalimantan, and also a lecturer of Postgraduate Program of Law in Universitas Negeri Riau (UNRI), Riau, Indonesia. Since 2019 until now his position is Dean of Islamic Business and Economics Faculty in IAIN Palangka Raya, Indonesia.

